

June 15, 2004 CPC



STAFF'S
REQUEST ANALYSIS
AND
RECOMMENDATION

04PW0371

The NRP Group, L.L.C.
(Grand Oaks Apartments)

Bermuda Magisterial District
North line of West Hundred Road and west line of Womack Road

REQUEST: Waiver of Development Standard

NRP Group, L.L.C (Grand Oaks Apartments) requests modification of the following multifamily residential standard of the Zoning Ordinance:

Section 19-111(h)(In part): "A second road access (public or private) shall be designed and constructed to a public road prior to occupancy of more than 50 units. ...the term "access roads" shall be those roads which connect residential clusters to public roads. Access roads shall have a minimum pavement width of 30 feet. All other private streets and driveways shall have a minimum pavement width of 24 feet."

Specifically, the applicant is requesting relief from the requirement of providing a second road access to serve the site for more than fifty (50) units.

RECOMMENDATION

Staff recommends approval with one (1) condition for the following reasons:

1. The applicant's letter is substantially in compliance with the requirements of the five (5) factors to be considered for a waiver.
2. Locating an emergency access along Route 10 in lieu of a second access will provide a second location for emergency access.

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3. Providing an emergency access along Route 10 complies with Zoning Case 03SN0119.

CONDITION

A paved emergency access road at least twenty-four (24) feet in width, including a gate that is normally closed and locked, shall be constructed with access to Route 10 prior to occupancy of more than fifty (50) units. The exact location shall be approved by the Planning and Transportation Departments. The exact design of the gate and locking device shall be approved by the Planning and Fire Departments. (P, T & F)

GENERAL INFORMATION

Associated Public Hearing Cases:

03SN0119 – John G. “Chip” Dicks
04PR0201 – The NRP Group L.L.C.

Developer:

NRP Group L.L.C.

Design consultants:

Site Engineering – Timmons Group
Architecture and Landscape Architecture - Cline Design Associates, P.A.

Location:

North line of West Hundred Road approximately 230 feet west of Womack Road also fronting the west line of Womack Road approximately 400 feet north of West Hundred Road. Tax IDs 785-653-5567, 7929, 9019 and 9629; 785-654-Part of 5817 and 785-654-7621; 786-653-0382; and 786-654-0329 (Sheet 26).

Existing Zoning and Land Use:

R-MF; Single family residential or vacant

Size:

27.8 acres

Adjacent Zoning and Land Use:

North - R-7 and R-7 with Conditional Use (Stock farm); Single family residential or vacant
South - A, R-7 and O-2; Single family residential or vacant.
East - R-7 and C-2; Single family residential, commercial or vacant
West - A; Vacant

BACKGROUND

The Zoning Ordinance requires that the Planning Commission make five (5) findings in its determination of Development Standards Waiver requests (see attached). The applicant has submitted justifications for this request.

This property lies within the Chester Village Plan, which suggests the property is appropriate for mixed use, corporate office and multifamily residential and for single family residential use of 1-2.5 units per acre. The requested Development Standards Waiver is consistent with the Chester Village Plan by permitting use of the property for multifamily residential with more than fifty (50) units.

A second entrance is required by the Zoning Ordinance for more than fifty (50) apartments. Proffered Conditions 2 and 3 of Zoning Case 03SN0119 permit an emergency access from Route 10 and one (1) direct access to Womack Road for this property. A Development Standards Waiver is required to provide relief from the requirement for a second access.

Proffered Condition 2 of zoning Case 03SN0119 reads:

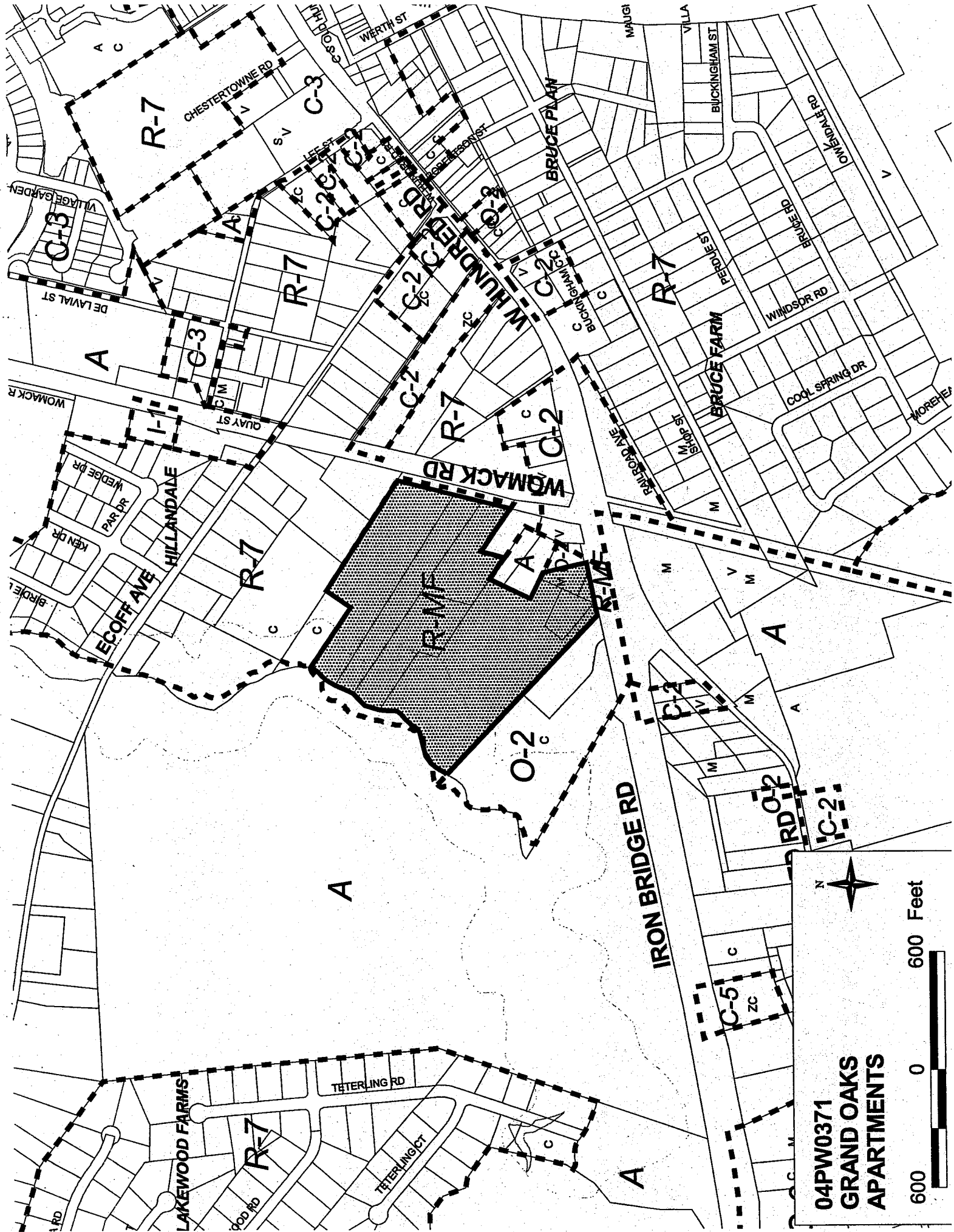
“No direct access shall be provided from the Property to Route 10. This condition shall not preclude the provision of an emergency access from the Property to Route 10. (T)”

Proffered Condition 3 of zoning Case 03SN0119 reads:

“Direct access from the Property to the north/south major arterial (“Womack Road Extended”) shall be limited to one (1) entrance/exit. The exact location of this access shall be approved by the Transportation Department. (T)”

CONCLUSIONS

Proffered Condition 2 of Zoning Case 03SN0119 specifically permits an emergency access to Route 10, and the proposed emergency access will provide a second access to the development in case of an emergency. Staff recommends approval of this Waiver with the Condition noted.



600 0 600 Feet

04PW0371
GRAND OAKS
APARTMENTS

applicable to part or all of the development or to rezone property within the development notwithstanding the fact that all parcels subject to the original condition or zoning are not included within the application to amend or rezone.
(Code 1978, § 21.1-11.2)

Sec. 19-18. Existing conditional use or conditional use planned development.

Where a use is classified as a conditional use under this chapter, and existed as a conditional or permitted use on March 31, 1997, it shall be considered to be a legal conditional use.
(Code 1978, § 21.1-12)

Sec. 19-19. Planning commission may grant modifications to development standards and requirements.

(a) Except for those development standards or requirements which must be modified by the granting of a variance, special exception, conditional use or a rezoning, the planning commission may grant modifications, with or without conditions, to development standards or requirements specified in this chapter. The planning commission shall fix a reasonable time for the hearing of an application under this section and decide the same within 60 days after its first hearing on the matter, unless the applicant requests or consents to action beyond such time or unless the applicant withdraws the request.

(b) No modification to a development standard or requirement shall be authorized by the planning commission unless it considers and determines substantial compliance with all of the following factors:

- (1) By reason of the exceptional narrowness, shallowness, size or shape of the specific piece of property or nearby properties or by reason of exceptional topographic conditions or other exceptional situation or condition relating to such properties the strict application of the terms of this chapter would effectively prohibit or unreasonably restrict the use of the property.
- (2) The granting of the modification will alleviate a clearly demonstrable hardship as

distinguished from a special privilege or convenience, and the hardship is not shared generally by other properties in the same zoning district and the same vicinity.

- (3) The modification will not be injurious to the use and enjoyment of adjacent property owners; will not diminish or impair property values within the neighborhood; will not change the character of the district; and will not be detrimental to or endanger the public health, safety or general welfare.
- (4) The condition or situation of the property concerned or the intended use of the property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to this chapter.
- (5) The granting of such modification will allow the project to comply with the comprehensive plan.

(c) In authorizing a modification, the planning commission may impose conditions regarding the location, character and other features of the proposed building, structure or use as it may deem necessary to the public interest; and it may require a guarantee or bond to remain in effect until compliance with such conditions has occurred.

(d) The planning commission shall not grant more than the minimum necessary modification to the appropriate development standard or requirement to resolve the hardship. The planning commission shall not grant a permanent modification to a standard or requirement if a temporary modification will suffice. A temporary modification may be granted if the planning commission determines that permanent compliance will be obtained in a future phase of development.

(e) The planning commission shall not grant a modification to any development standard or requirement if:

- (1) The granting of the modification will constitute the granting of a variance, special exception, conditional use or a rezoning.

- (2) Ordinary financial considerations are the principal reason for the requested modification.
- (3) The modification amends a property-specific condition imposed by the board of supervisors or the board of zoning appeals, unless such condition specifically grants such modification authority to the planning commission.
- (4) The applicant created the condition or situation generating the need for the modification and the applicant has not exhausted all other practicable solutions to the problem, including, but not limited to, the acquisition of additional property, the elimination or redesign of structures, or the reduction of development density.

(f) If the applicant disagrees with the planning commission's final decision, he may file a written appeal with the circuit court within 60 days of that decision. In addition, adjacent property owners may appeal the planning commission's final decision by filing a written appeal with the circuit court within 60 days of that decision. Adjacent property owners' appeals shall be limited to conditions which directly affect the property owners and include access, utility locations, buffers, conditions of zoning, architectural treatment and land use transitions. The court shall fix a reasonable time for hearing the appeal. During the appeal, the director of planning shall not approve any applicable site plan, building permit or record plat for any construction that would or could be affected by the appeal.

(Code 1978, § 21.1-12.1; Ord. of 6-12-96, § 1)

DIVISION 2. VARIANCES; SPECIAL EXCEPTIONS; APPEALS

Sec. 19-20. Board of zoning appeals—Generally.

(a) *Creation.* The board of zoning appeals shall consist of five residents of the county appointed by the circuit court. Their terms of office shall be for five years. The secretary of the board of zoning appeals shall notify the court at least 30 days in advance of the expiration of any term of office and shall also notify the court promptly if any vacancy

occurs. Appointments to fill vacancies shall be only for the unexpired portion of the term. Members may be reappointed to succeed themselves. Members of the board shall hold no other public office in the county except that one may be a member of the planning commission. A member whose term expires shall continue to serve until his successor is appointed and qualifies.

(b) *Organization; employees; removal of members; compensation.* The board of zoning appeals shall elect one of its members as chairman to serve for a one-year term. The chairman shall preside at all meetings of the board and, in his absence, a member designated by the board of zoning appeals as vice-chairman shall preside. The vice-chairman shall serve for a term of one year. Such officers may succeed themselves. The board of zoning appeals shall appoint a secretary who shall keep the minutes and other records of the actions and deliberations of the board of zoning appeals and shall perform such other ministerial duties as the board of zoning appeals shall direct. The secretary shall be a salaried county employee and shall perform the duties of secretary in addition to his other regular duties. Any board of zoning appeals member may be removed for malfeasance, misfeasance or nonfeasance in office or for other just cause, by the court which appointed him, after a hearing held after at least 15 days' notice.

(c) *Procedure.* The board of zoning appeals shall adopt such rules of procedure as it may deem necessary in order to carry into effect the provisions of this chapter. Meetings of the board of zoning appeals shall be held at the call of the chairman and at such other times as the board of zoning appeals may determine. Such chairman, or in his absence the vice-chairman, may administer oaths and compel the attendance of witnesses. All meetings of the board of zoning appeals shall be open to the public. The board of zoning appeals shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the board of zoning appeals and shall be of public record. The presence of three members shall be necessary for

**STATEMENT IN SUPPORT
of
REQUEST FOR DEVELOPMENT STANDARDS WAIVER
to
ALLOW EMERGENCY ACCESS AS SECONDARY ACCESS**

GRAND OAKS APARTMENTS

BACKGROUND.

1. Zoning Approval.

The NRP Group, L.L.C. (the "Applicant") received zoning approval from the Board of Supervisors on June 18, 2003 in Case No. 03SN0119. A copy of the zoning approval is attached hereto and incorporated by reference herein as Exhibit A. The zoning conditions applicable to the secondary access being an emergency access are as follows:

a. Proffered Condition #2 which provides:

"No direct access shall be provided from the Property to Route 10. This condition shall not preclude the provision of an emergency access from the Property to Route 10."

b. Proffered Condition #3 which provides:

"Direct access from the Property to the north/south major arterial (Womack Road Extended) shall be limited to one (1) entrance/exit. The exact location of this access shall be approved by the Transportation Department."

2. Site Plan Approval.

On February 18, 2004, the Planning Commission approved the site plan for "Phase One" of the Grand Oaks project. A copy of the site plan approval is attached hereto and incorporated by reference herein as Exhibit B.

REQUEST FOR DEVELOPMENT STANDARDS WAIVER.

Section 19-19 of the Zoning Ordinance sets out five factors to be considered by the Planning Commission in the approval of a request for development standards waiver. The five factors are as follows:

Factor Number 1. Property Size or Shape.

The Proffered Conditions acknowledge the limited frontage on Womack Road and Proffered Condition #3 limits access to one ingress/egress on Womack Road. The Proffered Conditions further acknowledge the limited frontage on Route 10 and Proffered Condition #2 limits direct access to Route 10, but expressly allows an emergency access to serve as the secondary access for the Property.

Factor Number 2. Granting of the Waiver Will Alleviate A Hardship.

The granting of the request for development standards waiver will clearly alleviate demonstrable hardship. The Applicant has worked on this project for two years, relying on the approvals in the process, and has purchased the Property in reliance upon those approvals, and in particular, the site plan approval by the Planning Commission on February 18, 2004. The Applicant purchased the Property and placed significant debt on the Property in direct reliance on these approvals by the County.

Factor Number 3. Granting the Waiver Will Not Be Detrimental to Adjacent Property Owners.

The granting of the development standards waiver will not be detrimental to adjacent property owners. The adjacent property owners are not affected by the location of the emergency access at the point reflected on the approved site plan, which was approved after public hearing on the site plan, during which no objections or concerns were raised about the location of the emergency access. In addition, the location on the approved site plan is the least detrimental of all potential access points and provides the most efficient access for emergency vehicles.

Factor Number 4. The Granting of the Waiver Will Not Create A General Regulation.

The granting of this waiver is consistent with past practices of the County in allowing secondary access requirements to be satisfied by an emergency access. Should the County determine that a different policy is appropriate going forward, the granting of this waiver will not constitute the formulation of a general regulation.

Factor Number 5. The Granting of the Waiver Will Allow the Project to Comply With the Comprehensive Plan.

The granting of this waiver of development standards will allow the Grand Oaks project to be developed as multifamily, which is consistent with the Chester Village Plan, which projected the Property for multifamily use.

DISCUSSION.

The Applicant has vested rights as a matter of Virginia law, with the approval of the site plan on February 18, 2004. Section 15.2-2307 of the Va. Code provides that vesting occurs when the Applicant obtains from the County “a significant governmental act”. The statute goes on to provide that acceptance of proffered conditions and approval of the site plan are significant governmental acts, which provide the Applicant vested rights.

Because the Applicant is vested with respect to the approval of the emergency access to Route 10, both as part of the Proffered Conditions in the zoning case approved by the Board, and by virtue of the approval by the Planning Commission of the site plan containing the emergency access on February 18, 2004, the Applicant does not feel it is necessary or appropriate to request a development standards waiver. As an accommodation to the County, however, the Applicant has submitted this request for development waiver so the Planning Commission can provide formal approval of the request for development standards waiver in this case.

Further, upon information and belief, during some extended period of time, like the last decade or so, the County has routinely allowed the

secondary access requirement of the Zoning Ordinance to be satisfied by an emergency access. In fact, upon information and belief, there are a number of situations where the emergency access was approved as the secondary access without requiring the applicant to obtain a development standards waiver. Upon further information and belief, this has generally been handled as part of the site plan approval without a separate development standards waiver being required.

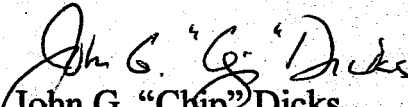
Proffered Condition #2 expressly allows the emergency access to Route 10 for the Grand Oaks project. This was part of the zoning approval and was approved by the Planning Commission and the Board of Supervisors. In addition, this condition was part of the negotiated agreement with the Chester Community Association, that a direct access to Route 10 from the Property would not be allowed, but that an emergency access was satisfactory to the Association.

The same is true for Proffered Condition #3, which limits the Property to having only one access to Womack Road, as a designated major arterial road on the County Transportation Plan. This was negotiated with the Chester Community Association and approved by the Planning Commission and the Board, with the approval of the zoning case.

Approval of the site plan by the Planning Commission on February 18, 2004, constituted approval of the emergency access as reflected in the approved site plan, without the need for a separate development standards waiver. Further, this is consistent with how the County has handled the emergency access issue in the past.

In closing, while the Applicant does not feel it should be necessary to submit this request for a waiver of development standards, because of the approval of the site plan by the Planning Commission on February 18, 2004, which included the emergency access to Route 10, the Applicant respectfully requests that the Planning Commission formally grant this request at its meeting on June 15, 2004. Please do not hesitate to contact me if further information is desired relative to this matter.

Respectfully submitted,


John G. "Chip" Dicks

FutureLaw, L.L.C.
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E-mail: chipdicks@futurelaw.net
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May 18, 2004

BOARD OF SUPERVISORS

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CHESTERFIELD, VIRGINIA 23832-0040

Exhibit A



LANE B. RAMSEY
COUNTY ADMINISTRATOR

July 28, 2003

John G. "Chip" Dicks
1015 East Main Street
Richmond, Virginia 23219

RE: Case # 03SN0119

Dear Mr. Dicks:

This letter is to advise you that on June 18, 2003, the Chesterfield County Board of Supervisors approved your request for rezoning and amendment of zoning district map from Agricultural (A), Residential (R-7) and Corporate Office (O-2) to Multifamily Residential (R-MF) as stated in Enclosure 1 on property fronting the north line of West Hundred Road, west of Womack Road, also fronting the west line of Womack Road, north of West Hundred Road and being Tax IDs 785-653-5567, 7929, 9019 and 9629; 785-654-Part of 5817 and 7621; 786-653-0382; and 786-654-0329.

If we can be of further assistance to you in this matter, please do not hesitate to contact Robert Clay at (804) 796-7122.

Sincerely,

Thomas E. Jacobson
Director, Planning Department

Enclosure

BOARD OF SUPERVISORS

MINUTES

June 18, 2003

Supervisors in Attendance:

Mr. Arthur S. Warren, Chairman
Mr. J. L. McHale, III, Vice Chrm.
Mr. Edward B. Barber
Mrs. Renny B. Humphrey
Mr. Kelly E. Miller

Mr. Lane B. Ramsey
County Administrator

Staff in Attendance:

Colonel Carl R. Baker,
Police Department
Mr. George Braunstein,
Exec. Dir., Community
Services Board
Ms. Marilyn Cole, Asst.
County Administrator
Mr. Roy Covington, Asst.
Director, Utilities
Ms. Mary Ann Curtin, Dir.,
Intergovtl. Relations
Mr. Mike Dance, Asst.
Director, Accounting
Mr. William W. Davenport,
Commonwealth's Attorney
Ms. Rebecca Dickson, Dir.,
Budget and Management
Mr. James Dunn, Dir.,
Economic Development
Mr. William Dupler,
Building Official
Ms. Lisa Elko, CMC
Clerk
Chief Stephen A. Elswick,
Fire Department
Ms. Karla Gerner, Dir.,
Human Resource Mgt.
Mr. Michael Golden, Dir.,
Parks and Recreation
Mr. Bradford S. Hammer,
Deputy Co. Admin.,
Human Services
Mr. Russell Harris, Mgr.
of Community Development
Services
Mr. Thomas E. Jacobson,
Dir., Planning
Mr. H. Edward James,
Dir., Purchasing
Mr. Donald Kappel, Dir.,
Public Affairs
Ms. Kathryn Kitchen, Asst.
Supt. of Schools for
Business and Finance
Mr. R. John McCracken,
Dir., Transportation
Mr. Richard M. McElfish,
Dir., Env. Engineering
Mr. Steven L. Micas,
County Attorney
Mr. Francis Pitaro, Dir.,
General Services

Mr. Dean Sasek, Asst.
Right-of-Way Manager
Mr. James J. L. Stegmaier,
Deputy Co. Admin.,
Management Services
Mr. M. D. Stith, Jr.,
Deputy Co. Admin.,
Community Development
Sheriff Clarence Williams,
Sheriff's Department

Mr. Warren called the regularly scheduled meeting to order at 3:07 p.m.

1. APPROVAL OF MINUTES

On motion of Mrs. Humphrey, seconded by Mr. McHale, the Board approved the minutes of May 28, 2003 and June 4, 2003, as submitted.

Ayes: Warren, McHale, Barber, Humphrey and Miller.
Nays: None.

2. COUNTY ADMINISTRATOR'S COMMENTS

- o Sheriff Williams introduced Mr. Ernest H. O'Boyle, Director of the Virginia Law Enforcement Accreditation Center.

Mr. O'Boyle stated Chesterfield County is joining only two other counties in the Commonwealth of Virginia where both the Sheriff's Office and the Police Department have been accredited. He further stated the Chesterfield Sheriff's Department is truly a professional law enforcement agency. He then introduced Sheriff F. W. Howard, New Kent County, and Sheriff Charles Jett, Stafford County, members of the Accreditation Executive Board.

Sheriff Howard presented the Certificate of Accreditation for the Chesterfield County Sheriff's Office to Sheriff Williams.

A standing ovation followed.

Sheriff Williams stated he is very proud to serve the citizens of Chesterfield County. He recognized several former county sheriffs and stated the deputies and other Sheriff's Office personnel deserve the credit for this great accomplishment.

- o Ms. Alice Magee, Vice-Chairperson of the Disability Services Board (DSB) reported on the findings of the DSB's 2002 Needs Assessment report. She stated it is impossible to determine the number of county citizens with physical and sensory disabilities and the information in the report was collected through consumer and telephone surveys. She reviewed goals for the DSB for the next biennium including considering ways to enhance assistive technology; use of recreational

Ayes: Warren, McHale, Barber, Humphrey and Miller.
Nays: None.

17. REMAINING MOBILE HOME PERMITS AND ZONING REQUESTS

03SN0119

In Bermuda Magisterial District, JOHN G. "CHIP" DICKS requests rezoning and amendment of zoning district map from Agricultural (A), Residential (R-7) and Corporate Office (O-2) to Multifamily Residential (R-MF). Residential use of up to ten (10) units per acre is permitted in a Multifamily Residential (R-MF) District. The Comprehensive Plan suggests the property is appropriate for mixed use: corporate office, multifamily residential of seven (7) to ten (10) units per acre and single family residential use of 1.01 to 2.5 units per acre. This request lies on 27.6 acres fronting approximately 265 feet on the north line of West Hundred Road approximately 200 feet west of Womack Road, also fronting approximately 585 feet on the west line of Womack Road approximately 380 feet north of West Hundred Road. Tax IDs 785-653-5567, 7929, 9019 and 9629; 785-654-Part of 5817 and 7621; 786-653-0382; and 786-654-0329 (Sheet 26).

Ms. Beverly Rogers presented a summary of Case 03SN0119 and stated staff recommended approval subject to the applicant reducing the total number of units from 216 to 211, as suggested in the Chester Village Plan. She further stated the Planning Commission recommended approval and acceptance of the proffered conditions indicating they felt the proposal complied with the intent of the Plan and the applicant had offered proffered conditions which assured quality development. She stated the applicant submitted an amendment to Proffered Condition 4 today at the request of a property owner to address concerns relative to closing of a crossover, and the Board would be required to suspend its rules to consider the amended proffered condition.

When asked, Ms. Rogers stated the Planning Commission will be involved in the site plan approval.

Mr. John G. "Chip" Dicks stated both the Planning Commission and the Chester Community Association support the proposed development of 216 units. He further stated the revised proffered condition addresses the concerns raised relative to closing of the crossover, and requested that the Board approve the request.

When asked, Mr. Dicks stated the proposed development represents a high quality product that will have at least 32 units dedicated to senior citizens in a separate area. He further stated that, because the developer became a part of the community from the beginning, all of the issues normally seen with multi-family developments were able to be resolved.

Mr. Warren called for public comment.

No one came forward to speak to the request.

After brief discussion, on motion of Mr. McHale, seconded by Mr. Warren, the Board suspended its rules at this time to

allow for amended Proffered Condition 4.

Ayes: Warren, McHale, Barber, Humphrey and Miller.
Nays: None.

On motion of Mr. McHale, seconded by Mr. Miller, the Board approved Case 03SN0119 and accepted the following proffered conditions:

1. Prior to any final site plan approval, one hundred (100) feet of right-of-way on the north side of Route 10, measured from the centerline of that part of Route 10 immediately adjacent to the property, shall be dedicated, free and unrestricted, to and for the benefit of Chesterfield County. (T)
2. No direct access shall be provided from the Property to Route 10. This condition shall not preclude the provision of an emergency access from the Property to Route 10. (T)
3. Direct access from the Property to the north/south major arterial ("Womack Road Extended") shall be limited to one (1) entrance/exit. The exact location of this access shall be approved by the Transportation Department. (T)
4. To provide an adequate roadway system, the owner/developer shall be responsible for the following:
 - a. Construction of an additional lane of pavement along the westbound lanes of Route 10 for the entire Property frontage.
 - b. Reconstruction/construction of two (2) lanes of Womack Road Extended to a twenty-four (24) foot wide pavement section with eight (8) foot wide shoulders, with modifications approved by the Transportation Department, from Route 10 to the approved access.
 - c. Construction of the Womack Road Extended intersection with Route 10 as a three lane section consisting of a northbound lane and two southbound lanes. The exact length of this improvement shall be approved by the Transportation Department.
 - d. Construction of adequate left turn lanes, as determined by the Transportation Department, at the existing crossovers on Route 10 located just east and west of the Womack Road Extended intersection. If approved by the Planning Commission, alternative road improvements may be substituted for the improvements identified in this part of the Proffered Condition.
 - e. Construction of additional pavement along Route 10 at the Womack Road Extended intersection to provide a right turn lane.
 - f. Construction of a sidewalk along the north side of Route 10 from the Womack Road Extended intersection, west to the western property line of the Property.

- g. Construction of additional pavement along Womack Road Extended at the approved access to provide left and right turn lanes, if warranted, based on Transportation Department standards.
 - h. Replacement of any of the existing trees in the median of Route 10 that are removed by the construction of the road improvements, as described in Proffered Condition 4.d. Two (2) replacement trees shall be installed for every existing tree that is removed. Unless otherwise approved by the Transportation Department, replacement trees (1) shall be installed in the Route 10 median, east and/or west of the Womack Road Extended intersection; (2) shall have a minimum of three (3) inch caliper; and (3) shall be from the list of approved plantings by the Virginia Department of Transportation ("VDOT"). The exact species, size and location shall be approved by the Transportation Department.
 - i. Dedication to Chesterfield County, free and unrestricted, of any additional right-of-way (or easements) required for the improvements identified above. In the event the Developer is unable to acquire the right-of-way necessary for the road improvements identified in Proffered Condition 4.e, 4.f and 4.g, the Developer may request, in writing, the County to acquire such right-of-way as public road improvements. All costs associated with the acquisition of the right-of-way shall be borne by the developer. In the event the County chooses not to assist the developer in acquisition of the "off-site" right-of-way, the Developer shall be relieved of the obligation to acquire the "off-site" right-of-way, and only provide the road improvements that can be accommodated within the available right-of-way, as determined by the Transportation Department.
- 5. Prior to any site plan approval, a phasing plan for the required road improvements, as identified in Proffered Condition 4, shall be submitted to and approved by the Transportation Department. (T)
 - 6. Pedestrian access shall be provided from the Property to the Chester Linear Park. The exact location this access shall be approved by the Parks and Recreation Department. (P&R)
 - 7. The public water and wastewater systems shall be used. (U)
 - 8. Except for timbering approved by the Virginia State Department of Forestry for the purpose of removing dead or diseased trees, there shall be no timbering on the Property until a land disturbance permit has been obtained from the Environmental Engineering Department and the approved devices installed. (EE)
 - 9. Prior to any site plan approval, an access easement, acceptable to the Planning and Transportation

Departments, shall be recorded from Womack Road Extended, across the Property, to adjacent properties to the north. (P & T)

10. The total number of dwelling units on the Property shall not exceed 216. (P)
11. Except as otherwise prohibited by the Virginia Fair Housing Law, the Federal Fair Housing Law, and applicable federal, state, or local legal requirements, at least thirty-two (32) dwelling units shall be restricted to "housing for older persons: as defined in the Virginia Fair Housing Law and shall have no persons under 19 years of age domiciled there ("Senior Housing"). Senior housing shall be clustered in an area on the northern part of the Property and each unit shall be noted as such on the site plan. (P)
12. Each dwelling unit shall have washer and dryer hook-ups. (P and BI)
13. The architectural style of the buildings shall incorporate the craftsman features as generally depicted on the renderings (the "Renderings") prepared by Cline Design Associates, P.A. (P)
14. Recreational facilities shall include at a minimum a clubhouse, fitness room, a swimming pool and a playground. (P)
15. Stormwater shall be retained on-site based on the post development 10-year storm rates and released at a rate no greater than the pre-development 2-year storm rates. (EE)
16. The applicant, subdivider, or assignee(s) shall pay the following to the County of Chesterfield for infrastructure improvements within the service district for the Property for the dwelling units on the parcels of the subject request as provided herein. Payment shall be made prior to the issuance of building permit.

For "Elderly Housing",

- a. \$4,815 per dwelling unit, if paid prior to January 1, 2004. At the time of payment, the \$4,815 will be allocated pro-rata among the facility costs as follows: \$598 for parks, \$324 for libraries, \$346 for fire stations, and \$3,547 for roads; or
- b. The amount approved by the Board of Supervisors not to exceed \$4,815 per dwelling unit, allocated pro-rata as set forth above, adjusted upward by any increase in the Marshall and Swift Building Cost Index between July 1, 2002, and July 1 of the fiscal year in which the payment is made if paid after December 31, 2003.

For "Non-elderly Housing",

For each "Non-elderly Housing" dwelling unit in excess of 41 exempted units, excluding any elderly housing units, on Tax Parcel ID Numbers (i) 7856547621; (ii) 7856545817 (part); (iii) 7866530382, and (iv)

7866540329, and for all "Non-elderly Housing" dwelling units on the remaining parcels:

- a. \$9,000 per dwelling unit, as defined above, if paid prior to January 1, 2004; or
- b. The amount approved by the Board of Supervisors not to exceed \$9,000 per dwelling unit, as defined above, adjusted upward by any increase in the Marshall and Swift Building Cost Index between July 1, 2002, and July 1 of the fiscal year in which the payment is made if paid after December 31, 2003.

In the event the cash payment is not used for the purpose for which proffered within 15 years of receipt, the cash shall be returned in full to the payor. (B&M)

17. Provided right of way is available, trees shall be installed along the north side of Route 10 from the Womack Road Extended intersection to the western property line. These trees shall comply with Section 19-518(h)(i) of the Zoning Ordinance relative to spacing, caliper and species. A plan depicting this requirement shall be submitted for review and approval by the Planning Department in conjunction with site plan review. (P)
18. Site plans shall be submitted to the Planning Commission for review and approval. (P)

Ayes: Warren, McHale, Barber, Humphrey and Miller.

Nays: None.

03SN0159

In Matoaca Magisterial District, VERIZON WIRELESS requests Conditional Use Planned Development and amendment of zoning district map to permit a communications tower with height and setback exceptions in an Agricultural (A) District. The density of such amendment will be controlled by zoning conditions or Ordinance standards. The Comprehensive Plan suggests the property is appropriate for residential use on 1-5 acre lots. This request lies on 3.7 acres fronting approximately 375 feet on the north line of Trents Bridge Road, also fronting approximately 375 feet on the west line of River Road and is located in the northwest quadrant of the intersection of these roads. Tax ID 754-624-6621 (Sheet 40).

Mr. Jacobson presented a summary of Case 03SN0159 and stated staff recommends denial because the request does not comply with the Public Facilities Plan or the county's tower siting policy. He further stated the Planning Commission recommends approval subject to one condition and acceptance of the proffered conditions, indicating there is a need for enhanced service in the rural area and the proposed antennae represent a minimal impact on the surrounding residential areas since the tower has existed for such a long time.

Mr. John Easter, representing the applicant, stated the Planning Commission's recommendation is acceptable and requested the Board's support.



Chesterfield County, Virginia
Department of Planning

9901 Lori Road - P.O. Box 40 - Chesterfield, VA 23832-0040
Phone: (804) 748-1050 - Fax: (804) 717-6295 - Internet: chesterfield.gov

Exhibit 3

THOMAS E. JACOBSON
Director

February 18, 2004

David Budge
NPR Group
~~5309 Transportation Boulevard~~
Cleveland, OH 44125

RE: Case # 04PR0201

Dear Mr. Budge:

This letter is to advise you that on February 17, 2004, the Chesterfield County Planning Commission approved your request for Planning Commission approval of a site plan, as required by zoning Case 03SN0119, subject to the conditions on property located on 27 acres fronting approximately 235 feet on the north line of West Hundred Road approximately 230 feet west of Womack Road, also fronting approximately 770 feet on the west line of Womack Road approximately 200 feet north of West Hundred Road and being Tax IDs 785-653-5567, 7929 and 9019; 785-654-Part of 5817 and 7621; 786-653-0382; and 786-654-0329 (Sheet 26). A final copy of the minutes will be forwarded to you once approved by the Planning Commission.

If we can be of further assistance to you in this matter, please do not hesitate to contact Greg Allen at 748-1072.

Sincerely,

A handwritten signature in dark ink, appearing to read "T. E. Jacobson", is written over the printed name.

Thomas E. Jacobson
Director of Planning

c: Andrew Gould, Timmons

RECEIVED

FEB 25 2004